



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3873

Introduced 2/26/2009, by Rep. Sandra M. Pihos

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.197 new

415 ILCS 5/3.330

415 ILCS 5/22.34

was 415 ILCS 5/3.32

Amends the Environmental Protection Act. Provides that the term "pollution control facility" does not include the portion of a site or facility (i) that is used for the composting of food scrap, livestock waste, crop residue, uncontaminated wood waste, or paper waste, including, but not limited to, corrugated paper or cardboard, and (ii) that meets a list of specified requirements. Replaces a provision that required the Agency to develop and make recommendations to the Board concerning (i) performance standards for organic waste compost facilities and (ii) testing procedures and standards for the end-product compost produced by organic waste compost facilities with a provision that authorizes the Agency to draft those standards. Redefines "organic waste" to include, among other things, food scrap (now, "food waste"), livestock waste, crop residue, and paper waste.

LRB096 11728 JDS 22457 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 3.330 and 22.34 and by adding Section 3.197 as
6 follows:

7 (415 ILCS 5/3.197 new)

8 Sec. 3.197. Food scrap. "Food scrap" means garbage that is
9 (i) capable of being decomposed into compost by composting,
10 (ii) separated by the generator from other waste, including,
11 but not limited to, garbage that is not capable of being
12 decomposed into compost by composting, and (iii) managed
13 separately from other waste, including, but not limited to,
14 garbage that is not capable of being decomposed into compost by
15 composting. "Food scrap" includes, but is not limited to,
16 packaging, utensils, and food containers capable of being
17 decomposed into compost by composting.

18 (415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

19 Sec. 3.330. Pollution control facility.

20 (a) "Pollution control facility" is any waste storage site,
21 sanitary landfill, waste disposal site, waste transfer
22 station, waste treatment facility, or waste incinerator. This

1 includes sewers, sewage treatment plants, and any other
2 facilities owned or operated by sanitary districts organized
3 under the Metropolitan Water Reclamation District Act.

4 The following are not pollution control facilities:

5 (1) (blank);

6 (2) waste storage sites regulated under 40 CFR, Part
7 761.42;

8 (3) sites or facilities used by any person conducting a
9 waste storage, waste treatment, waste disposal, waste
10 transfer or waste incineration operation, or a combination
11 thereof, for wastes generated by such person's own
12 activities, when such wastes are stored, treated, disposed
13 of, transferred or incinerated within the site or facility
14 owned, controlled or operated by such person, or when such
15 wastes are transported within or between sites or
16 facilities owned, controlled or operated by such person;

17 (4) sites or facilities at which the State is
18 performing removal or remedial action pursuant to Section
19 22.2 or 55.3;

20 (5) abandoned quarries used solely for the disposal of
21 concrete, earth materials, gravel, or aggregate debris
22 resulting from road construction activities conducted by a
23 unit of government or construction activities due to the
24 construction and installation of underground pipes, lines,
25 conduit or wires off of the premises of a public utility
26 company which are conducted by a public utility;

1 (6) sites or facilities used by any person to
2 specifically conduct a landscape composting operation;

3 (7) regional facilities as defined in the Central
4 Midwest Interstate Low-Level Radioactive Waste Compact;

5 (8) the portion of a site or facility where coal
6 combustion wastes are stored or disposed of in accordance
7 with subdivision (r) (2) or (r) (3) of Section 21;

8 (9) the portion of a site or facility used for the
9 collection, storage or processing of waste tires as defined
10 in Title XIV;

11 (10) the portion of a site or facility used for
12 treatment of petroleum contaminated materials by
13 application onto or incorporation into the soil surface and
14 any portion of that site or facility used for storage of
15 petroleum contaminated materials before treatment. Only
16 those categories of petroleum listed in Section 57.9(a) (3)
17 are exempt under this subdivision (10);

18 (11) the portion of a site or facility where used oil
19 is collected or stored prior to shipment to a recycling or
20 energy recovery facility, provided that the used oil is
21 generated by households or commercial establishments, and
22 the site or facility is a recycling center or a business
23 where oil or gasoline is sold at retail;

24 (11.5) processing sites or facilities that receive
25 only on-specification used oil, as defined in 35 Ill.
26 Admin. Code 739, originating from used oil collectors for

1 processing that is managed under 35 Ill. Admin. Code 739 to
2 produce products for sale to off-site petroleum
3 facilities, if these processing sites or facilities are:
4 (i) located within a home rule unit of local government
5 with a population of at least 30,000 according to the 2000
6 federal census, that home rule unit of local government has
7 been designated as an Urban Round II Empowerment Zone by
8 the United States Department of Housing and Urban
9 Development, and that home rule unit of local government
10 has enacted an ordinance approving the location of the site
11 or facility and provided funding for the site or facility;
12 and (ii) in compliance with all applicable zoning
13 requirements;

14 (12) the portion of a site or facility utilizing coal
15 combustion waste for stabilization and treatment of only
16 waste generated on that site or facility when used in
17 connection with response actions pursuant to the federal
18 Comprehensive Environmental Response, Compensation, and
19 Liability Act of 1980, the federal Resource Conservation
20 and Recovery Act of 1976, or the Illinois Environmental
21 Protection Act or as authorized by the Agency;

22 (13) the portion of a site or facility accepting
23 exclusively general construction or demolition debris,
24 located in a county with a population over 700,000 as of
25 January 1, 2000, and operated and located in accordance
26 with Section 22.38 of this Act;

1 (14) the portion of a site or facility, located within
2 a unit of local government that has enacted local zoning
3 requirements, used to accept, separate, and process
4 uncontaminated broken concrete, with or without protruding
5 metal bars, provided that the uncontaminated broken
6 concrete and metal bars are not speculatively accumulated,
7 are at the site or facility no longer than one year after
8 their acceptance, and are returned to the economic
9 mainstream in the form of raw materials or products;

10 (15) the portion of a site or facility located in a
11 county with a population over 3,000,000 that has obtained
12 local siting approval under Section 39.2 of this Act for a
13 municipal waste incinerator on or before July 1, 2005 and
14 that is used for a non-hazardous waste transfer station;

15 (16) a site or facility that temporarily holds in
16 transit for 10 days or less, non-petruscible solid waste in
17 original containers, no larger in capacity than 500
18 gallons, provided that such waste is further transferred to
19 a recycling, disposal, treatment, or storage facility on a
20 non-contiguous site and provided such site or facility
21 complies with the applicable 10-day transfer requirements
22 of the federal Resource Conservation and Recovery Act of
23 1976 and United States Department of Transportation
24 hazardous material requirements. For purposes of this
25 Section only, "non-petruscible solid waste" means waste
26 other than municipal garbage that does not rot or become

1 putrid, including, but not limited to, paints, solvent,
2 filters, and absorbents;

3 (17) the portion of a site or facility located in a
4 county with a population greater than 3,000,000 that has
5 obtained local siting approval, under Section 39.2 of this
6 Act, for a municipal waste incinerator on or before July 1,
7 2005 and that is used for wood combustion facilities for
8 energy recovery that accept and burn only wood material, as
9 included in a fuel specification approved by the Agency;

10 ~~and~~

11 (18) a transfer station used exclusively for landscape
12 waste, including a transfer station where landscape waste
13 is ground to reduce its volume, where the landscape waste
14 is held no longer than 24 hours from the time it was
15 received; ~~and-~~

16 (19) the portion of a site or facility that (i) is used
17 for the composting of food scrap, livestock waste, crop
18 residue, uncontaminated wood waste, or paper waste,
19 including, but not limited to, corrugated paper or
20 cardboard, and (ii) meets all of the following:

21 (A) There must not be more than a total of 30,000
22 cubic yards of livestock waste in raw form or in the
23 process of being composted at the site or facility at
24 any one time.

25 (B) All food scrap, livestock waste, crop residue,
26 uncontaminated wood waste, and paper waste must be

1 processed into a contained composting system by the end
2 of each operating day or all of the following
3 additional requirements must be met:

4 (i) The portion of the site or facility used
5 for the composting operation must include a
6 setback of at least 200 feet from the nearest
7 potable water supply well.

8 (ii) The portion of the site or facility used
9 for the composting operation must be located
10 outside the boundary of the 10-year floodplain or
11 is floodproofed.

12 (iii) The portion of the site of facility used
13 for the composting operation must be located at
14 least one-eighth of a mile from the nearest
15 residence, other than a residence located on the
16 same property as the site or facility.

17 (iv) The portion of the site or facility used
18 for the composting operation must be located at
19 least one-eighth of a mile from the property line
20 of all of the following areas:

21 (I) Facilities that primarily serve to
22 house or treat people that are
23 immunocompromised or immunosuppressed, such as
24 cancer or AIDS patients; people with asthma,
25 cystic fibrosis, or bioaerosol allergies; or
26 children under the age of one year.

1 (II) Primary and secondary schools and
2 adjacent areas that the schools use for
3 recreation.

4 (III) Any facility for child care licensed
5 under Section 3 of the Child Care Act of 1969;
6 preschools; and adjacent areas that the
7 facilities or preschools use for recreation.

8 (v) By the end of each operating day, all food
9 scrap, livestock waste, crop residue,
10 uncontaminated wood waste, and paper waste must be
11 (i) processed into windrows or other piles and (ii)
12 covered in a manner that prevents scavenging by
13 birds and animals and prevents other nuisances.

14 (C) Food scrap, livestock waste, crop residue,
15 uncontaminated wood waste, paper waste, and compost
16 must not be placed within 5 feet of the water table.

17 (D) The site or facility must meet all requirements
18 under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et
19 seq.).

20 (E) The site or facility must not (i) restrict the
21 flow of a 100-year flood, (ii) result in washout of
22 food scrap from a 100-year flood, or (iii) reduce the
23 temporary water storage capacity of the 100-year
24 floodplain, unless measures are undertaken to provide
25 alternative storage capacity, such as by providing
26 lagoons, holding tanks, or drainage around structures

1 at the facility.

2 (F) The site or facility must not be located in any
3 area where it may pose a threat of harm or destruction
4 to the features for which:

5 (i) An irreplaceable historic or
6 archaeological site has been listed under the
7 National Historic Preservation Act (16 U.S.C. 470
8 et seq.) or the Illinois Historic Preservation
9 Act;

10 (ii) A natural landmark has been designated by
11 the National Park Service or the Illinois State
12 Historic Preservation Office; or

13 (iii) A natural area has been designated as a
14 Dedicated Illinois Nature Preserve under the
15 Illinois Natural Areas Preservation Act.

16 (G) The site or facility must not be located in an
17 area where it may jeopardize the continued existence of
18 any designated endangered species, result in the
19 destruction or adverse modification of the critical
20 habitat for such species, or cause or contribute to the
21 taking of any endangered or threatened species of
22 plant, fish, or wildlife listed under the Endangered
23 Species Act (16 U.S.C. 1531 et seq.) or the Illinois
24 Endangered Species Protection Act.

25 (b) A new pollution control facility is:

26 (1) a pollution control facility initially permitted

1 for development or construction after July 1, 1981; or
2 (2) the area of expansion beyond the boundary of a
3 currently permitted pollution control facility; or
4 (3) a permitted pollution control facility requesting
5 approval to store, dispose of, transfer or incinerate, for
6 the first time, any special or hazardous waste.
7 (Source: P.A. 94-94, eff. 7-1-05; 94-249, eff. 7-19-05; 94-824,
8 eff. 6-2-06; 95-131, eff. 8-13-07; 95-177, eff. 1-1-08; 95-331,
9 eff. 8-21-07; 95-408, eff. 8-24-07; 95-876, eff. 8-21-08.)

10 (415 ILCS 5/22.34)

11 Sec. 22.34. Organic waste compost quality standards.

12 (a) The Agency may ~~By January 1, 1994, the Agency shall~~
13 develop and make recommendations to the Board concerning (i)
14 performance standards for organic waste compost facilities and
15 (ii) testing procedures and standards for the end-product
16 compost produced by organic waste compost facilities.

17 The Agency, in cooperation with the Department, shall
18 appoint a Technical Advisory Committee for the purpose of
19 developing these recommendations. Among other things, the
20 Committee shall evaluate environmental and safety
21 considerations, compliance costs, and regulations adopted in
22 other states and countries. The Committee shall have balanced
23 representation and shall include members representing
24 academia, the composting industry, the Department of
25 Agriculture, the landscaping industry, environmental

1 organizations, municipalities, and counties.

2 Performance standards for organic waste compost facilities
3 may include, but are not limited to ~~shall at a minimum include:~~

4 (1) the management of potential exposures for human
5 disease vectors and odor;

6 (2) the management of surface water;

7 (3) contingency planning for handling end-product
8 compost material that does not meet end-product compost
9 standards adopted by the Board ~~requirements of subsection~~
10 ~~(b);~~

11 (4) plans for intended purposes of end-use product; and

12 (5) a financial assurance plan necessary to restore the
13 site as specified in Agency permit. The financial assurance
14 plan may include, but is not limited to, posting with the
15 Agency a performance bond or other security for the purpose
16 of ensuring site restoration.

17 (b) No later than one year after the Agency makes
18 recommendations to the Board under subsection (a) of this
19 Section ~~By December 1, 1997,~~ the Board shall adopt, as
20 applicable:

21 (1) performance standards for organic waste compost
22 facilities; and

23 (2) testing procedures and standards for the
24 end-product compost produced by organic waste compost
25 facilities.

26 The Board shall evaluate the merits of different standards

1 for end-product compost applications.

2 (c) On-site residential composting that is used solely for
3 the purpose of composting organic waste generated on-site and
4 that will not be offered for off-site sale or use is exempt
5 from any standards promulgated under subsections (a) and (b).
6 Subsection (b)(2) shall not apply to end-product compost used
7 as daily cover or vegetative amendment in the final layer.
8 Subsection (b) applies to any end-product compost offered for
9 sale or use in Illinois.

10 (d) For the purposes of this Section, "organic waste" means
11 food ~~scrap waste~~, landscape waste, wood waste, livestock waste,
12 crop residue, paper waste, or other non-hazardous carbonaceous
13 waste that is collected and processed separately from the rest
14 of the municipal waste stream.

15 (Source: P.A. 87-1227; 88-690, eff. 1-24-95.)